

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

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No. 03-1728

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David R. Bradley,

Appellant,

v.

Douglas Weber, Warden, S.D. State  
Penitentiary; Thomas Gillcrest,  
Psychologist, S.D.S.P.; Gary Taylor,  
Unit Manager, S.D.S.P.; Jeff  
Bloomberg, S.D.S.P., Secretary of  
D.O.C.,

Appellees.

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Appeal from the United States  
District Court for the  
District of South Dakota.

[UNPUBLISHED]

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Submitted: July 21, 2003  
Filed: August 6, 2003

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Before MORRIS SHEPPARD ARNOLD, MURPHY, and MELLOY, Circuit Judges.

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PER CURIAM.

South Dakota inmate David R. Bradley appeals the district court's<sup>1</sup> order dismissing his 42 U.S.C. § 1983 action, and determining that the dismissal was a "third strike" under 28 U.S.C. § 1915(g). Upon review, we are unable to find two

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<sup>1</sup>The Honorable Richard H. Battey, United States District Judge for the District of South Dakota.

previous dismissals that qualify as “strikes,” and we therefore grant Bradley leave to appeal in forma pauperis. We conclude, however, that dismissal of the action was proper, because Bradley’s amended complaint failed to state a claim. See Moore v. Sims, 200 F.3d 1170, 1171 (8th Cir. 2000) (per curiam) (standard of review).

Accordingly, we summarily affirm the dismissal, see 8th Cir. R. 47A(a), and we vacate the portion of the district court’s order which states that the dismissal constituted a third “strike.”

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.